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DEPT FOR WHA/EPSC FAITH CORNEILLE

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SUBJECT: REPRIEVE FOR U.S. OIL COMPANY CITY ORIENTE

REF: A. A: QUITO 2491

[1](#)B. B: QUITO 2575

Classified By: DCM Jefferson Brown, Reasons 1.4 (b&d)

[1](#)1. (C) Summary: A recommendation to cancel the contract of U.S. oil company City Oriente appears to be on hold as the GOE is preparing to initiate contract renegotiation. In addition, criminal complaints against City Oriente personnel now appear to be being handled fairly and a request for "preventive imprisonment" of City Oriente officials was rejected by the Supreme Court. End Summary.

"Caducity" Recommendation Returned

[1](#)2. (C) On November 8, then-Petroecuador President Carlos Pareja formally recommended that the Minister of Petroleum initiate a caducity process to cancel City Oriente's contract, since City Oriente had not paid the GOE as required under a 2006 law requiring companies to provide the government with at least 50% of "extraordinary" petroleum revenues (reftel A). Less than two weeks later Petroleum Minister Galo Chiriboga sent the recommendation back to Petroecuador because of "inconsistencies" in the documentation (as noted in reftel A, Chiriboga was apparently blindsided by the caducity recommendation, after earlier reassuring the Ambassador that such action did not appear to be imminent). The recommendation reportedly did not have all of the required documents and certain documents were not notarized correctly. On November 29, President Correa replaced Petroecuador Executive President Carlos Pareja with Guillermo Zurita (reftel B). Thus far Zurita has not publicly commented on the caducity recommendation, and City Oriente reports that it has not received any signals, positive or negative, about the caducity process since Chiriboga returned the recommendation.

Criminal Complaints

[1](#)3. (C) In October, two criminal complaints were lodged against City Oriente. One was launched by a Congressional Deputy, accusing several of City Oriente's representatives of embezzlement for not paying the money owed under the 2006 law; the other was from the Solicitor General (Procurador General), claiming that City Oriente, by not complying with the law, influenced other petroleum companies not to comply with the law. The complaint submitted by the Deputy was sent

to the Supreme Court with a request for "preventive imprisonment," and some City Oriente representatives have remained out of the country until the issue could be resolved. City Oriente reports that on December 18, the Supreme Court rejected the preventive imprisonment measure as unnecessary, although it requested that the investigation in the case continue. City Oriente had previously requested the other complaint be combined with the Deputy's complaint, since both deal with essentially the same issue. City Oriente's General Manager Kyle Ford reports that recently-appointed Attorney General (Fiscal General) Washington Pesantes told him that he would combine the two cases.

Next Steps

14. (C) Minister Chiriboga has stressed in recent comments that the GOE was initiating contract discussions with all of the oil companies affected by the extraordinary income sharing requirements. Ford believes that the GOE has entered a new phase and wants to work on oil company contract renegotiations, which could commence any day. The City Oriente officials who had been out of the country because of the threat of preventive detention are returning and will join City Oriente's negotiating team. In addition, Ford said that he welcomes further investigation that he believes will demonstrate City Oriente's innocence of the criminal charges.

Comment

15. (C) As we noted previously, City Oriente is in a more delicate position than other foreign oil companies, in good part because it has not paid anything under the revenue

sharing requirement. However, the caducity process appears to be on a slower track and possibly frozen for the time being, perhaps by design or perhaps by happenstance because of the recent changes at Petroecuador. If so, that gives City Oriente and the GOE more time to explore whether it will be feasible to restructure City Oriente's contract in a way that will be acceptable to both sides. The decision to put the criminal charges on an investigative track is also most welcome, since in the Ecuadorian system this usually means arrest warrants are unlikely to result and the case moves onto a slow, often inactive track. By moving out of the spotlight and political heat, the chance for some kind of negotiated resolution increases.

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